



General Assembly

Substitute Bill No. 5298

January Session, 2007

* HB05298GAE 032607 *

**AN ACT CONCERNING THE IDENTITY OF WHISTLEBLOWERS,
EXTENDING WHISTLEBLOWER PROTECTIONS TO MUNICIPAL
WHISTLEBLOWERS AND ESTABLISHING AN OFFICE OF
ADMINISTRATIVE HEARINGS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4-61dd of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) Any person having knowledge of any matter involving
4 corruption, unethical practices, violation of state laws or regulations,
5 mismanagement, gross waste of funds, abuse of authority or danger to
6 the public safety occurring in any state or municipal department or
7 agency or any quasi-public agency, as defined in section 1-120, or any
8 person having knowledge of any matter involving corruption,
9 violation of state or federal laws or regulations, gross waste of funds,
10 abuse of authority or danger to the public safety occurring in any large
11 state contract, may transmit all facts and information in such person's
12 possession concerning such matter to the Auditors of Public Accounts.
13 The Auditors of Public Accounts shall review such matter and report
14 their findings and any recommendations to the Attorney General.
15 Upon receiving such a report, the Attorney General shall make such
16 investigation as the Attorney General deems proper regarding such
17 report and any other information that may be reasonably derived from
18 such report. Prior to conducting an investigation of any information

19 that may be reasonably derived from such report, the Attorney
20 General shall consult with the Auditors of Public Accounts concerning
21 the relationship of such additional information to the report that has
22 been issued pursuant to this subsection. Any such subsequent
23 investigation deemed appropriate by the Attorney General shall only
24 be conducted with the concurrence and assistance of the Auditors of
25 Public Accounts. At the request of the Attorney General or on their
26 own initiative, the auditors shall assist in the investigation. The
27 Attorney General shall have power to summon witnesses, require the
28 production of any necessary books, papers or other documents and
29 administer oaths to witnesses, where necessary, for the purpose of an
30 investigation pursuant to this section. Upon the conclusion of the
31 investigation, the Attorney General shall where necessary, report any
32 findings to the Governor, or in matters involving criminal activity, to
33 the Chief State's Attorney. In addition to the exempt records provision
34 of section 1-210, the Auditors of Public Accounts and the Attorney
35 General shall not, after receipt of any information from a person under
36 the provisions of this section, disclose the identity of such person,
37 [without such person's consent unless the Auditors of Public Accounts
38 or the Attorney General determines that such disclosure is
39 unavoidable, and may withhold records of such investigation, during
40 the pendency of the investigation.]

41 (b) (1) No state or municipal officer or employee, as defined in
42 section 4-141, no quasi-public agency officer or employee, no officer or
43 employee of a large state contractor and no appointing authority shall
44 take or threaten to take any personnel action against any state,
45 municipal or quasi-public agency employee or any employee of a large
46 state contractor in retaliation for such employee's or contractor's
47 disclosure of information to (A) an employee of the Auditors of Public
48 Accounts or the Attorney General under the provisions of subsection
49 (a) of this section; (B) an employee of the state or municipal agency or
50 quasi-public agency where such state or municipal officer or employee
51 is employed; (C) an employee of a state agency pursuant to a
52 mandated reporter statute; or (D) in the case of a large state contractor,

53 an employee of the contracting state agency concerning information
54 involving the large state contract.

55 (2) If a state, municipal or quasi-public agency employee or an
56 employee of a large state contractor alleges that a personnel action has
57 been threatened or taken in violation of subdivision (1) of this
58 subsection, the employee may notify the Attorney General, who shall
59 investigate pursuant to subsection (a) of this section.

60 (3) (A) Not later than thirty days after learning of the specific
61 incident giving rise to a claim that a personnel action has been
62 threatened or has occurred in violation of subdivision (1) of this
63 subsection, a state, municipal or quasi-public agency employee, an
64 employee of a large state contractor or the employee's attorney may
65 file a complaint concerning such personnel action with the Chief
66 Human Rights Referee designated under section 46a-57. The Chief
67 Human Rights Referee shall assign the complaint to a human rights
68 referee appointed under section 46a-57, who shall conduct a hearing
69 and issue a decision concerning whether the officer or employee taking
70 or threatening to take the personnel action violated any provision of
71 this section. If the human rights referee finds such a violation, the
72 referee may award the aggrieved employee reinstatement to the
73 employee's former position, back pay and reestablishment of any
74 employee benefits for which the employee would otherwise have been
75 eligible if such violation had not occurred, reasonable attorneys' fees,
76 and any other damages. For the purposes of this subsection, such
77 human rights referee shall act as an independent hearing officer. The
78 decision of a human rights referee under this subsection may be
79 appealed by any person who was a party at such hearing, in
80 accordance with the provisions of section 4-183.

81 (B) The Chief Human Rights Referee shall adopt regulations, in
82 accordance with the provisions of chapter 54, establishing the
83 procedure for filing complaints and noticing and conducting hearings
84 under subparagraph (A) of this subdivision.

85 (4) As an alternative to the provisions of subdivisions (2) and (3) of
86 this subsection: (A) A state or quasi-public agency employee who
87 alleges that a personnel action has been threatened or taken may file an
88 appeal not later than thirty days after learning of the specific incident
89 giving rise to such claim with the Employees' Review Board under
90 section 5-202, or, in the case of a state, municipal or quasi-public
91 agency employee covered by a collective bargaining contract, in
92 accordance with the procedure provided by such contract; or (B) an
93 employee of a large state contractor alleging that such action has been
94 threatened or taken may, after exhausting all available administrative
95 remedies, bring a civil action in accordance with the provisions of
96 subsection (c) of section 31-51m.

97 (5) In any proceeding under subdivision (2), (3) or (4) of this
98 subsection concerning a personnel action taken or threatened against
99 any state, municipal or quasi-public agency employee or any employee
100 of a large state contractor, which personnel action occurs not later than
101 one year after the employee first transmits facts and information
102 concerning a matter under subsection (a) of this section to the Auditors
103 of Public Accounts or the Attorney General, there shall be a rebuttable
104 presumption that the personnel action is in retaliation for the action
105 taken by the employee under subsection (a) of this section.

106 (6) If a state officer or employee, as defined in section 4-141, a quasi-
107 public agency officer or employee, an officer or employee of a large
108 state contractor or an appointing authority takes or threatens to take
109 any action to impede, fail to renew or cancel a contract between a state
110 agency and a large state contractor, or between a large state contractor
111 and its subcontractor, in retaliation for the disclosure of information
112 pursuant to subsection (a) of this section to any agency listed in
113 subdivision (1) of this subsection, such affected agency, contractor or
114 subcontractor may, not later than ninety days after learning of such
115 action, threat or failure to renew, bring a civil action in the superior
116 court for the judicial district of Hartford to recover damages, attorney's
117 fees and costs.

118 (c) Any employee of a state, municipal or quasi-public agency or
119 large state contractor, who is found to have knowingly and maliciously
120 made false charges under subsection (a) of this section, shall be subject
121 to disciplinary action by such employee's appointing authority up to
122 and including dismissal. In the case of a state or quasi-public agency
123 employee, such action shall be subject to appeal to the Employees'
124 Review Board in accordance with section 5-202, or in the case of state,
125 municipal or quasi-public agency employees included in collective
126 bargaining contracts, the procedure provided by such contracts.

127 (d) On or before September first, annually, the Auditors of Public
128 Accounts shall submit to the clerk of each house of the General
129 Assembly a report indicating the number of matters for which facts
130 and information were transmitted to the auditors pursuant to this
131 section during the preceding state fiscal year and the disposition of
132 each such matter.

133 (e) Each contract between a state or quasi-public agency and a large
134 state contractor shall provide that, if an officer, employee or
135 appointing authority of a large state contractor takes or threatens to
136 take any personnel action against any employee of the contractor in
137 retaliation for such employee's disclosure of information to any
138 employee of the contracting state or quasi-public agency or the
139 Auditors of Public Accounts or the Attorney General under the
140 provisions of subsection (a) of this section, the contractor shall be liable
141 for a civil penalty of not more than five thousand dollars for each
142 offense, up to a maximum of twenty per cent of the value of the
143 contract. Each violation shall be a separate and distinct offense and in
144 the case of a continuing violation each calendar day's continuance of
145 the violation shall be deemed to be a separate and distinct offense. The
146 executive head of the state or quasi-public agency may request the
147 Attorney General to bring a civil action in the superior court for the
148 judicial district of Hartford to seek imposition and recovery of such
149 civil penalty.

150 (f) Each large state contractor shall post a notice of the provisions of

151 this section relating to large state contractors in a conspicuous place
152 which is readily available for viewing by the employees of the
153 contractor.

154 (g) No person who, in good faith, discloses information to the
155 Auditors of Public Accounts or the Attorney General in accordance
156 with this section shall be liable for any civil damages resulting from
157 such good faith disclosure.

158 (h) As used in this section:

159 (1) "Large state contract" means a contract between an entity and a
160 state or quasi-public agency, having a value of five million dollars or
161 more; and

162 (2) "Large state contractor" means an entity that has entered into a
163 large state contract with a state or quasi-public agency.

164 Sec. 2. (NEW) (*Effective July 1, 2007*) There shall be within the
165 Executive Department an Office of Administrative Hearings for the
166 purpose of separating the adjudicatory function from the investigatory
167 and prosecutorial functions of agencies in the Executive Department
168 and to perform the impartial administration and conduct of hearings
169 of contested cases in accordance with the provisions of sections 2 to 12,
170 inclusive, and 24 of this act and chapter 54 of the general statutes. The
171 central office of the Office of Administrative Hearings shall be
172 established within Hartford County.

173 Sec. 3. (NEW) (*Effective July 1, 2007*) (a) A Chief Administrative Law
174 Judge shall be appointed by the Governor, to serve a term expiring on
175 March 1, 2008. Thereafter, the Governor shall, with the advice and
176 consent of the General Assembly, appoint the Chief Administrative
177 Law Judge to serve for a four-year term or until a successor has been
178 appointed and qualified. To be eligible for appointment, the Chief
179 Administrative Law Judge shall have been admitted to the practice of
180 law in this state for at least ten years and shall be knowledgeable on
181 the subject of administrative law. The Chief Administrative Law Judge

182 shall take the oath of office provided in section 1-25 of the general
183 statutes prior to commencing his or her duties, shall devote full time to
184 the duties of the office of Chief Administrative Law Judge and shall
185 not engage in the private practice of law. The Chief Administrative
186 Law Judge shall be eligible for reappointment.

187 (b) The Chief Administrative Law Judge may be removed during
188 his or her term by the Governor for good cause shown.

189 (c) The Chief Administrative Law Judge shall be exempt from the
190 classified service.

191 (d) The Chief Administrative Law Judge, administrative law judges,
192 assistants and other employees of the Office of Administrative
193 Hearings shall be entitled to the fringe benefits applicable to other state
194 employees, shall be included under the provisions of chapters 65 and
195 66 of the general statutes regarding disability and retirement of state
196 employees and shall receive full retirement credit for each year or
197 portion thereof for which retirement benefits are paid for service as
198 such Chief Administrative Law Judge, administrative law judge,
199 assistant or other employee.

200 Sec. 4. (NEW) (*Effective July 1, 2007*) (a) The Chief Administrative
201 Law Judge shall be the chief executive officer of the Office of
202 Administrative Hearings and shall:

203 (1) Have all of the powers specifically granted in the general statutes
204 and any additional powers that are reasonable and necessary to enable
205 the Chief Administrative Law Judge to carry out the duties of his or
206 her office, including, but not limited to, the powers and duties
207 specified in section 4-8 of the general statutes;

208 (2) Assign administrative law judges in all cases referred to the
209 Office of Administrative Hearings, provided, in assigning an
210 administrative law judge to a case, the Chief Administrative Law
211 Judge shall, whenever practicable, assign an administrative law judge
212 who has expertise in the legal issues or general subject matter of the

213 proceeding;

214 (3) Have all the powers and duties of an administrative law judge;

215 (4) Prepare an edited version of a proposed final decision and final
216 decision that shall not disclose protected information in any case
217 where any provision of the general statutes, federal law, state or
218 federal regulations or an order of a court of competent jurisdiction bars
219 the disclosure of the identity of any person or party or bars the
220 disclosure of any other information;

221 (5) Collect, compile and prepare statistics and other data with
222 respect to the operations of the Office of Administrative Hearings and
223 submit annually to the Governor and the General Assembly a report
224 on such operations, including, but not limited to, the number of
225 hearings initiated, the number of proposed final decisions rendered,
226 the number of partial or total reversals of such decisions by the
227 agencies, the number of final decisions rendered and the number of
228 proceedings pending;

229 (6) Study the subject of administrative adjudication in all its aspects
230 and develop recommendations to promote the goals of impartiality,
231 fairness, uniformity and cost-effectiveness in the administration and
232 conduct of hearings of contested cases;

233 (7) Adopt regulations, in accordance with chapter 54 of the general
234 statutes, to carry out the provisions of sections 2 to 12, inclusive, and
235 24 of this act and sections 4-176e to 4-181a, inclusive, of the general
236 statutes, as amended by this act, and the policies of the Office of
237 Administrative Hearings in connection therewith. Such regulations,
238 with respect to contested cases heard by said office, shall supersede
239 any inconsistent agency regulations, policies or procedures, except
240 those mandated by the general statutes or federal law, and shall
241 include, but not be limited to, standards related to time limits for
242 agency action in contested cases pursuant to applicable provisions of
243 the general statutes, and standards for the giving of notices of
244 hearings, for the scheduling of hearings and for the assignment of

245 administrative law judges;

246 (8) Develop, in consultation with each agency subject to the
247 provisions of section 9 of this act and with the appropriate committee
248 or section of the Connecticut Bar Association, a program for the
249 continuing training and education of administrative law judges and
250 ancillary personnel, and implement such program; and

251 (9) Index, by name and subject, all written orders and final decisions
252 and make all indices, proposed final decisions and final decisions
253 available for public inspection and copying electronically and to the
254 extent required by the Freedom of Information Act, as defined in
255 section 1-200 of the general statutes.

256 (b) Any Deputy Chief Administrative Law Judge of the Office of
257 Administrative Hearings shall be appointed by the Chief
258 Administrative Law Judge from among the administrative law judges.

259 Sec. 5. (NEW) (*Effective October 1, 2007*) (a) Notwithstanding any
260 provision of the general statutes, each full-time employee or
261 permanent part-time employee of an agency subject to the provisions
262 of section 9 of this act whose primary duties (1) are to conduct hearings
263 in contested cases and issue final decisions or proposed final decisions,
264 including, but not limited to, human rights referees, hearing
265 adjudicators and hearing officers, or (2) relate to providing
266 administrative services required for conducting such hearings and
267 issuing such decisions, shall be transferred to the Office of
268 Administrative Hearings, in accordance with the provisions of this
269 section and sections 4-38d, 4-38e and 4-39 of the general statutes.

270 (b) Persons transferred to the Office of Administrative Hearings
271 pursuant to this section and persons appointed by the Chief
272 Administrative Law Judge pursuant to chapter 67 of the general
273 statutes shall be in the classified service and subject to the provisions
274 of chapter 68 of the general statutes. Persons transferred to the Office
275 of Administrative Hearings pursuant to this section who are members
276 of an employee organization, as defined in section 5-270 of the general

277 statutes, at the time of their transfer shall continue to be represented by
278 such employee organization. Administrative law judges appointed by
279 the Chief Administrative Law Judge shall be represented by the
280 collective bargaining representative for administrative and residual
281 state employees.

282 (c) The salaries, seniority and benefits of persons transferred to the
283 Office of Administrative Hearings pursuant to this section shall not be
284 reduced as a result of the transfer.

285 (d) No promotions governed by any existing and applicable
286 memorandum of understanding between the Office of Labor Relations
287 and any collective bargaining representative for state employees shall
288 be denied, delayed, impaired or eliminated by the implementation of
289 sections 2 to 12, inclusive, of this act.

290 (e) (1) Persons transferred to the Office of Administrative Hearings
291 pursuant to this section who are members of a collective bargaining
292 unit at the time of their transfer shall (A) not lose the job classification
293 in which they are placed at the time of their transfer as a result of the
294 transfer, and (B) remain the beneficiaries of any existing and applicable
295 memorandum of understanding between the Office of Labor Relations
296 and any collective bargaining representative for state employees.

297 (2) Persons transferred to the Office of Administrative Hearings
298 pursuant to this section who are not members of a collective
299 bargaining unit at the time of their transfer, and persons appointed by
300 the Chief Administrative Law Judge, shall (A) have a job classification
301 commensurate with persons who are members of a collective
302 bargaining unit at the time of their transfer, and (B) be subject to and
303 become the beneficiaries of the terms of any existing and applicable
304 memorandum of understanding between the Office of Labor Relations
305 and any collective bargaining representative for state employees.

306 (f) Time served in other agencies by persons transferred to the
307 Office of Administrative Hearings pursuant to this section shall be
308 recognized as qualifying experience and time in the Office of

309 Administrative Hearings and shall count as successful and satisfactory
310 performance for career progression under any existing and applicable
311 memorandum of understanding between the Office of Labor Relations
312 and any collective bargaining representative for state employees.

313 (g) An administrative law judge, assistant or other employee of the
314 Office of Administrative Hearings who is removed, suspended,
315 demoted or subjected to disciplinary action or other adverse
316 employment action may appeal such action in accordance with the
317 applicable collective bargaining agreement.

318 Sec. 6. (NEW) (*Effective October 1, 2007*) (a) Each administrative law
319 judge shall have been admitted to the practice of law in this state for at
320 least two years, except that such requirement shall not apply to any
321 administrative law judge transferred pursuant to section 5 of this act.
322 Each administrative law judge shall be knowledgeable on the subject
323 of administrative law.

324 (b) An administrative law judge assigned to hear matters pursuant
325 to section 10-76h of the general statutes shall receive training in
326 administrative hearing procedures, including due process, applicable
327 to the special education needs of children.

328 (c) An administrative law judge shall have the powers granted to
329 hearing officers and presiding officers pursuant to sections 2 to 12,
330 inclusive, and 24 of this act and chapter 54 of the general statutes.

331 Sec. 7. (NEW) (*Effective October 1, 2007*) (a) All hearings in contested
332 cases conducted by the Office of Administrative Hearings shall be
333 conducted by an administrative law judge assigned by the Chief
334 Administrative Law Judge and shall be conducted in accordance with
335 sections 2 to 12, inclusive, and 24 of this act and sections 4-176e to 4-
336 181a, inclusive, of the general statutes, as amended by this act.

337 (b) Unless different time limits are provided by any provision of the
338 general statutes for contested cases before an agency, the time limits
339 provided in sections 4-176e to 4-181a, inclusive, of the general statutes,

340 as amended by this act, apply to all contested cases conducted by the
341 Office of Administrative Hearings.

342 Sec. 8. (NEW) (*Effective October 1, 2007*) An administrative law judge
343 may conduct hearings, mediations and settlement negotiations held by
344 the Office of Administrative Hearings. If a contested case is not
345 resolved through mediation or settlement, either party may proceed to
346 a hearing. An administrative law judge who attempted to settle or
347 mediate a matter may not thereafter be assigned to hear the matter. If a
348 contested case is resolved by stipulation, agreed settlement or consent
349 order to the administrative law judge, the administrative law judge
350 shall issue an order dismissing the contested case. The order shall
351 incorporate by reference such stipulation, agreed settlement or consent
352 order which shall be attached thereto. The order shall further provide
353 that no findings of fact or conclusions of law have been made
354 regarding any alleged violations of the law. The order and stipulation,
355 agreed settlement or consent order may be enforceable by any party in
356 Superior Court. A party may petition the superior court for the judicial
357 district of New Britain for enforcement of the order and stipulation,
358 agreed settlement or consent order and for appropriate temporary
359 relief or a restraining order.

360 Sec. 9. (NEW) (*Effective October 1, 2007*) (a) Notwithstanding any
361 provision of the general statutes, and except as otherwise provided in
362 sections 10 and 11 of this act, on and after the effective date of this
363 section, the Office of Administrative Hearings shall conduct hearings
364 and render proposed final decisions or, if authorized or required by
365 law, final decisions in contested cases:

366 (1) Pursuant to subdivision (3) of subsection (b) of section 4-61dd of
367 the general statutes, as amended by this act;

368 (2) Brought by or before the Department of Children and Families;

369 (3) Brought by or before the Department of Transportation; and

370 (4) Brought by or before the Commission on Human Rights and

371 Opportunities.

372 (b) Notwithstanding any provision of the general statutes, and
373 except as otherwise provided in sections 10 and 11 of this act, on and
374 after February 1, 2008, the Office of Administrative Hearings shall
375 conduct hearings and render proposed final decisions or, if authorized
376 or required by law, final decisions in contested cases:

377 (1) Pursuant to section 10-76h of the general statutes;

378 (2) Pursuant to subdivision (2) of subsection (b) of section 10-186
379 and section 10-187 of the general statutes; and

380 (3) Brought by or before the Department of Motor Vehicles pursuant
381 to section 14-36g, 14-40c, 14-44, 14-46g, 14-52, 14-52a, 14-64, 14-67c, 14-
382 67p, 14-72, 14-74, 14-79, 14-111, 14-111f, 14-111g, 14-111q, 14-134, 14-
383 163c, 14-163d, 14-191 or 14-253a of the general statutes.

384 (c) The powers, functions and duties of conducting hearings and
385 issuing decisions in contested cases enumerated in subsections (a) and
386 (b) of this section shall, on the applicable dates specified in said
387 subsections, be transferred to the Office of Administrative Hearings in
388 accordance with the provisions of sections 4-38d, 4-38e and 4-39 of the
389 general statutes.

390 (d) Any hearing officer under contract with an agency to conduct
391 hearings and issue decisions in contested cases enumerated in
392 subsections (a) and (b) of this section shall, on and after the applicable
393 dates specified in said subsections, continue to serve until all such
394 cases assigned to such hearing officer are completed, unless the Chief
395 Administrative Law Judge determines that the case shall be reassigned
396 to an administrative law judge.

397 Sec. 10. (NEW) (*Effective July 1, 2007*) No administrative law judge
398 may be assigned by the Chief Administrative Law Judge to hear a
399 contested case with respect to:

400 (1) Any hearing that is required by federal law to be conducted by a

401 specific agency or other hearing authority; or

402 (2) Any matter where the head of the agency, or one or more of the
403 members of a multimember agency, presides at the hearing in a
404 contested case.

405 Sec. 11. (NEW) (*Effective July 1, 2007*) On and after October 1, 2010,
406 the Governor, at the request of the head of any agency subject to the
407 provisions of section 9 of this act and for good cause shown, may
408 exempt such agency from the requirements of said section.

409 Sec. 12. (NEW) (*Effective July 1, 2007*) The Chief Administrative Law
410 Judge may contract with any political subdivision of this state to
411 provide an administrative law judge to the political subdivision for the
412 purpose of conducting hearings, mediations and settlements.

413 Sec. 13. Subsection (e) of section 2c-2b of the general statutes is
414 amended by adding subdivision (21) as follows (*Effective July 1, 2007*):

415 (NEW) (21) The Office of Administrative Hearings established
416 under section 2 of this act.

417 Sec. 14. Section 4-166 of the general statutes is repealed and the
418 following is substituted in lieu thereof (*Effective October 1, 2007*):

419 As used in this chapter and sections 2 to 12, inclusive, and 24 of this
420 act, unless the context otherwise requires:

421 (1) "Agency" means each state board, commission, department or
422 officer authorized by law to make regulations or to determine
423 contested cases, but does not include either house or any committee of
424 the General Assembly, the courts, the Council on Probate Judicial
425 Conduct, the Governor, Lieutenant Governor or Attorney General, or
426 town or regional boards of education, or automobile dispute
427 settlement panels established pursuant to section 42-181;

428 (2) "Contested case" means a proceeding, including but not
429 restricted to rate-making, price fixing and licensing, in which the legal

430 rights, duties or privileges of a party are required by state statute or
431 regulation to be determined by an agency or by the Office of
432 Administrative Hearings after an opportunity for hearing or in which a
433 hearing is in fact held, but does not include proceedings on a petition
434 for a declaratory ruling under section 4-176, as amended by this act,
435 hearings referred to in section 4-168 or hearings conducted by the
436 Department of Correction or the Board of Pardons and Paroles;

437 (3) "Final decision" means (A) the [agency] determination in a
438 contested case made pursuant to section 4-179, as amended by this act,
439 section 24 of this act and section 4-180, as amended by this act, (B) a
440 declaratory ruling issued by an agency pursuant to section 4-176, as
441 amended by this act, or (C) [an agency] a decision made after
442 reconsideration of a final decision. The term does not include a
443 preliminary or intermediate ruling or order, [of an agency,] or a ruling
444 [of an agency] granting or denying a petition for reconsideration;

445 (4) "Hearing officer" means an individual appointed by an agency to
446 conduct a hearing in an agency proceeding that is not conducted by an
447 administrative law judge pursuant to section 9 of this act. Such
448 individual may be a staff employee of the agency;

449 (5) "Intervenor" means a person, other than a party, granted status
450 as an intervenor by an agency in accordance with the provisions of
451 subsection (d) of section 4-176 or subsection (b) of section 4-177a, as
452 amended by this act;

453 (6) "License" includes the whole or part of any agency permit,
454 certificate, approval, registration, charter or similar form of permission
455 required by law, but does not include a license required solely for
456 revenue purposes;

457 (7) "Licensing" includes the agency process respecting the grant,
458 denial, renewal, revocation, suspension, annulment, withdrawal or
459 amendment of a license;

460 (8) "Party" means each person (A) whose legal rights, duties or

461 privileges are required by statute to be determined by an agency
462 proceeding and who is named or admitted as a party, (B) who is
463 required by law to be a party in an agency proceeding, or (C) who is
464 granted status as a party under subsection (a) of section 4-177a, as
465 amended by this act;

466 (9) "Person" means any individual, partnership, corporation, limited
467 liability company, association, governmental subdivision, agency or
468 public or private organization of any character, but does not include
469 the agency conducting the proceeding;

470 (10) "Presiding officer" means the head of the agency presiding at a
471 hearing, the member of [an] a multimember agency or the hearing
472 officer designated by the head of the agency to preside at [the] a
473 hearing, or an administrative law judge presiding at a hearing;

474 (11) "Proposed final decision" means a final decision proposed by an
475 agency or a presiding officer under section 4-179, as amended by this
476 act, or section 24 of this act;

477 (12) "Proposed regulation" means a proposal by an agency under
478 the provisions of section 4-168 for a new regulation or for a change in,
479 addition to or repeal of an existing regulation;

480 (13) "Regulation" means each agency statement of general
481 applicability, without regard to its designation, that implements,
482 interprets, or prescribes law or policy, or describes the organization,
483 procedure, or practice requirements of any agency. The term includes
484 the amendment or repeal of a prior regulation, but does not include
485 (A) statements concerning only the internal management of any
486 agency and not affecting private rights or procedures available to the
487 public, (B) declaratory rulings issued pursuant to section 4-176, as
488 amended by this act, or (C) intra-agency or interagency memoranda;

489 (14) "Regulation-making" means the process for formulation and
490 adoption of a regulation;

491 (15) "Administrative law judge" means an administrative law judge
492 transferred or appointed in accordance with sections 3 to 6, inclusive,
493 of this act;

494 (16) "Head of the agency" means the individual or group of
495 individuals constituting the highest authority within an agency.

496 Sec. 15. Subsection (g) of section 4-176 of the general statutes is
497 repealed and the following is substituted in lieu thereof (*Effective*
498 *October 1, 2007*):

499 (g) If the agency conducts a hearing in a proceeding for a
500 declaratory ruling, the provisions of [subsection (b) of section 4-177c,]
501 section 4-178, as amended by this act, and section 4-179, as amended
502 by this act, shall apply to the hearing.

503 Sec. 16. Section 4-176e of the general statutes is repealed and the
504 following is substituted in lieu thereof (*Effective October 1, 2007*):

505 Except as otherwise required by the general statutes, a [hearing in
506 an agency proceeding may be held before (1)] contested case shall be
507 heard by (1) an administrative law judge, (2) the head of the agency,
508 (3) one or more of the members of a multimember agency, or (4) one or
509 more hearing officers, provided no individual who has personally
510 carried out the function of an investigator in a contested case may
511 serve as a hearing officer in that case. [, or (2) one or more of the
512 members of the agency.]

513 Sec. 17. Section 4-177 of the general statutes is repealed and the
514 following is substituted in lieu thereof (*Effective October 1, 2007*):

515 (a) In a contested case, all parties shall be afforded an opportunity
516 for hearing after reasonable notice from the agency.

517 (b) The notice shall be in writing and shall include: (1) A statement
518 of the time, place [,] and nature of the hearing or, if the contested case
519 has been referred to the Office of Administrative Hearings, a statement
520 that the matter has been referred to the Office of Administrative

521 Hearings and that the time and place of the hearing will be set by an
522 administrative law judge; (2) a statement of the legal authority and
523 jurisdiction under which the hearing is to be held; (3) a reference to the
524 particular sections of the statutes and regulations involved; and (4) a
525 short and plain statement of the matters asserted. If the agency or
526 party is unable to state the matters in detail at the time the notice is
527 served, the initial notice may be limited to a statement of the issues
528 involved. Thereafter, upon application, a more definite and detailed
529 statement shall be furnished.

530 (c) After an agency refers a contested case to the Office of
531 Administrative Hearings, the agency shall certify the official record in
532 such contested case to the Office of Administrative Hearings. The
533 Office of Administrative Hearings shall issue a notice in writing to all
534 parties that shall include a statement of the time, place and nature of
535 the hearing. Thereafter, a party shall file all documents that are to
536 become part of such record with the Office of Administrative
537 Hearings. The filing of such documents with the agency rather than
538 with the Office of Administrative Hearings shall not be a jurisdictional
539 defect and shall not be grounds for termination of the proceeding,
540 provided the administrative law judge may assess appropriate costs
541 and sanctions against a party who misfiles such documents on a
542 showing of prejudice resulting from a wilful misfiling. The Office of
543 Administrative Hearings shall maintain the official record of a
544 contested case referred to said office.

545 [(c)] (d) Unless precluded by law, a contested case may be resolved
546 by stipulation, agreed settlement [,] or consent order or by the default
547 of a party.

548 [(d)] (e) The record in a contested case shall include: (1) Written
549 notices related to the case; (2) all petitions, pleadings, motions and
550 intermediate rulings; (3) evidence received or considered; (4) questions
551 and offers of proof, objections and rulings thereon; (5) the official
552 transcript, if any, of proceedings relating to the case, or, if not
553 transcribed, any recording or stenographic record of the proceedings;

554 (6) proposed final decisions and exceptions thereto; and (7) the final
555 decision.

556 [(e)] (f) Any recording or stenographic record of the proceedings
557 shall be transcribed on request of any party. The requesting party shall
558 pay the cost of such transcript, unless otherwise provided by law.
559 Nothing in this section shall relieve an agency of its responsibility
560 under section 4-183, as amended by this act, to transcribe the record for
561 an appeal.

562 Sec. 18. Section 4-177a of the general statutes is repealed and the
563 following is substituted in lieu thereof (*Effective October 1, 2007*):

564 (a) The presiding officer shall grant a person status as a party in a
565 contested case if [that] such officer finds that: (1) Such person has
566 submitted a written petition to the agency or presiding officer, and
567 mailed copies to all parties, at least five days before the date of
568 hearing; and (2) the petition states facts that demonstrate that the
569 petitioner's legal rights, duties or privileges shall be specifically
570 affected by [the agency's] a decision in the contested case.

571 (b) The presiding officer may grant any person status as an
572 intervenor in a contested case if [that] such officer finds that: (1) Such
573 person has submitted a written petition to the agency or presiding
574 officer, and mailed copies to all parties, at least five days before the
575 date of hearing; and (2) the petition states facts that demonstrate that
576 the petitioner's participation is in the interests of justice and will not
577 impair the orderly conduct of the proceedings.

578 (c) The five-day requirement in subsections (a) and (b) of this
579 section may be waived at any time before or after commencement of
580 the hearing by the presiding officer on a showing of good cause.

581 (d) If a petition is granted pursuant to subsection (b) of this section,
582 the presiding officer may limit the intervenor's participation to
583 designated issues in which the intervenor has a particular interest as
584 demonstrated by the petition and shall define the intervenor's rights to

585 inspect and copy records, physical evidence, papers and documents, to
586 introduce evidence [,] and to argue and cross-examine on those issues.
587 The presiding officer may further restrict the participation of an
588 intervenor in the proceedings, including the rights to inspect and copy
589 records, to introduce evidence and to cross-examine, so as to promote
590 the orderly conduct of the proceedings.

591 Sec. 19. Section 4-177b of the general statutes is repealed and the
592 following is substituted in lieu thereof (*Effective October 1, 2007*):

593 In a contested case, the presiding officer may administer oaths, take
594 testimony under oath relative to the case, subpoena witnesses and
595 require the production of records, physical evidence, papers and
596 documents to any hearing held in the case. If any person disobeys the
597 subpoena or, having appeared, refuses to answer any question put to
598 [him] such person or to produce any records, physical evidence,
599 papers and documents requested by the presiding officer, the
600 administrative law judge or, if the hearing is conducted by the agency,
601 the agency may apply to the superior court for the judicial district of
602 [Hartford] New Britain or for the judicial district in which the person
603 resides, or to any judge of that court if it is not in session, setting forth
604 the disobedience to the subpoena or refusal to answer or produce, and
605 the court or judge shall cite the person to appear before the court or
606 judge to show cause why the records, physical evidence, papers and
607 documents should not be produced or why a question put to [him]
608 such person should not be answered. Nothing in this section shall be
609 construed to limit the authority of the agency, the administrative law
610 judge or any party as otherwise allowed by law.

611 Sec. 20. Section 4-177c of the general statutes is repealed and the
612 following is substituted in lieu thereof (*Effective October 1, 2007*):

613 [(a)] In a contested case, each party and the agency, including an
614 agency conducting the proceeding, shall be afforded the opportunity
615 (1) to inspect and copy relevant and material records, papers and
616 documents not in the possession of the party or such agency, except as

617 otherwise provided by federal law or any other provision of the
618 general statutes, and (2) at a hearing, to respond, to cross-examine
619 other parties, intervenors [] and witnesses, and to present evidence
620 and argument on all issues involved.

621 [(b) Persons not named as parties or intervenors may, in the
622 discretion of the presiding officer, be given an opportunity to present
623 oral or written statements. The presiding officer may require any such
624 statement to be given under oath or affirmation.]

625 Sec. 21. Section 4-178 of the general statutes is repealed and the
626 following is substituted in lieu thereof (*Effective October 1, 2007*):

627 In contested cases: (1) Any oral or documentary evidence may be
628 received, but the [agency] presiding officer shall, as a matter of policy,
629 provide for the exclusion of irrelevant, immaterial or unduly
630 repetitious evidence; (2) [agencies shall give effect to] the rules of
631 privilege recognized by law shall be given effect; (3) when a hearing
632 will be expedited and the interests of the parties will not be prejudiced
633 substantially, any part of the evidence may be received in written
634 form; (4) documentary evidence may be received in the form of copies
635 or excerpts, if the original is not readily available, and upon request,
636 parties and the agency, including an agency conducting the
637 proceeding, shall be given an opportunity to compare the copy with
638 the original; (5) a party and [such] the agency, including an agency
639 conducting the proceeding, may conduct cross-examinations required
640 for a full and true disclosure of the facts; (6) notice may be taken of
641 judicially cognizable facts; [and of] (7) in a proceeding conducted by
642 the agency or in an agency review of a proposed final decision, notice
643 may be taken of generally recognized technical or scientific facts
644 within the agency's specialized knowledge; [(7)] (8) parties shall be
645 notified in a timely manner of any material noticed, including any
646 agency memoranda or data, and they shall be afforded an opportunity
647 to contest the material so noticed; and [(8) the agency's] (9) in a
648 proceeding conducted by the agency or in an agency review of a
649 proposed final decision, the agency may use its experience, technical

650 competence [,] and specialized knowledge [may be used] in the
651 evaluation of the evidence.

652 Sec. 22. Section 4-178a of the general statutes is repealed and the
653 following is substituted in lieu thereof (*Effective October 1, 2007*):

654 If a hearing in a contested case or in a declaratory ruling proceeding
655 is held before a hearing officer or before less than a majority of the
656 members of the agency who are authorized by law to render a final
657 decision, a party, if permitted by regulation and before rendition of the
658 final decision, may request a review by a majority of the members of
659 the agency, of any preliminary, procedural or evidentiary ruling made
660 at the hearing. The majority of the members may make an appropriate
661 order, including the reconvening of the hearing. The provisions of this
662 section do not apply to a hearing conducted by an administrative law
663 judge.

664 Sec. 23. Section 4-179 of the general statutes is repealed and the
665 following is substituted in lieu thereof (*Effective October 1, 2007*):

666 (a) When, in an agency proceeding that is not conducted by an
667 administrative law judge, a majority of the members of the agency
668 who are to render the final decision have not heard the matter or read
669 the record, the decision, if adverse to a party, shall not be rendered
670 until a proposed final decision is served upon the parties, and an
671 opportunity is afforded to each party adversely affected to file
672 exceptions and present briefs and oral argument to the members of the
673 agency who are to render the final decision.

674 (b) A proposed final decision made under this section shall be in
675 writing and [contain a statement of the reasons for the decision and a
676 finding of facts and conclusion of law on each issue of fact or law
677 necessary to the decision] shall comply with the requirements of
678 subsection (c) of section 4-180, as amended by this act.

679 (c) Except when authorized by law to render a final decision for an
680 agency, a hearing officer shall, after hearing a matter, make a proposed

681 final decision.

682 (d) The parties and the agency conducting the proceeding, by
683 written stipulation, may waive compliance with this section.

684 Sec. 24. (NEW) (*Effective October 1, 2007*) (a) A proposed final
685 decision rendered by an administrative law judge shall be delivered
686 promptly to each party or the party's authorized representative, and to
687 the agency, personally or by United States mail, certified or registered,
688 postage prepaid, return receipt requested. After such proposed final
689 decision is rendered, the record in the contested case shall be delivered
690 promptly to the agency.

691 (b) A proposed final decision rendered by an administrative law
692 judge shall become a final decision of the agency unless the head of the
693 agency, not later than twenty-one days following the date the
694 proposed final decision is delivered or mailed to the agency, modifies
695 or rejects the proposed final decision, provided the head of the agency
696 may, before expiration of such time period and for good cause, certify
697 the extension of such time period for not more than an additional
698 twenty-one days. If the head of the agency modifies or rejects the
699 proposed final decision, the head of the agency shall state the reason
700 for the modification or rejection on the record. In reviewing a proposed
701 final decision rendered by an administrative law judge, the head of the
702 agency may afford each party, including the agency, an opportunity to
703 present briefs and may afford each party, including the agency, an
704 opportunity to present oral argument.

705 (c) If, within the time period provided in subsection (b) of this
706 section, the head of the agency, in reviewing a proposed final decision
707 rendered by an administrative law judge, determines that additional
708 evidence is necessary, the head of the agency shall refer the matter to
709 the Office of Administrative Hearings. The Chief Administrative Law
710 Judge shall assign the administrative law judge who rendered such
711 proposed final decision to take the additional evidence unless such
712 administrative law judge is unavailable. After taking the additional

713 evidence, the administrative law judge shall, not later than thirty days
714 following such referral, prepare a proposed final decision as provided
715 in this section based on such additional evidence and the record of the
716 prior hearing.

717 (d) A proposed final decision made under this section shall be in
718 writing and shall comply with the requirements of subsection (c) of
719 section 4-180 of the general statutes, as amended by this act.

720 Sec. 25. Section 4-180 of the general statutes is repealed and the
721 following is substituted in lieu thereof (*Effective October 1, 2007*):

722 (a) Each agency and administrative law judge shall proceed with
723 reasonable dispatch to conclude any matter pending before [it] such
724 agency or administrative law judge and, in all hearings of contested
725 cases conducted by the agency or the administrative law judge, shall
726 render a final decision within ninety days following the close of
727 evidence or the due date for the filing of briefs, whichever is later. [, in
728 such proceedings.]

729 (b) If, in any contested case, any agency or administrative law judge
730 fails to comply with the provisions of subsection (a) of this section, [in
731 any contested case, any party thereto] any party to such contested case
732 may apply to the superior court for the judicial district of [Hartford]
733 New Britain for an order requiring the agency or administrative law
734 judge to render a proposed final decision or a final decision forthwith.
735 The court, after hearing, shall issue an appropriate order.

736 (c) A final decision in a contested case shall be in writing or, if there
737 is no proposed final decision, orally stated on the record. [and, if
738 adverse to a party,] A proposed final decision and a final decision in a
739 contested case shall include [the agency's] findings of fact and
740 conclusions of law necessary to [its] the decision and shall be made by
741 applying all pertinent provisions of law. Findings of fact shall be based
742 exclusively on the evidence in the record and on matters noticed. The
743 [agency shall state in] proposed final decision and the final decision
744 shall contain the name of each party and the most recent mailing

745 address, provided to the agency, of the party or [his] the party's
746 authorized representative. If the final decision is orally stated on the
747 record, each such name and mailing address shall be included in the
748 record.

749 (d) The final decision shall be delivered promptly to each party or
750 [his] the party's authorized representative and, in the case of a final
751 decision by an administrative law judge authorized by law to render
752 such decision, to the agency, personally or by United States mail,
753 certified or registered, postage prepaid, return receipt requested. [The]
754 An agency rendering a final decision shall immediately transmit a
755 copy of such decision to the Office of Administrative Hearings. A
756 proposed final decision that becomes a final decision because of
757 agency inaction, as provided in subsection (b) of section 24 of this act,
758 shall become effective at the expiration of the time period specified in
759 said subsection or on a later date specified in such proposed final
760 decision. Any other final decision shall be effective when personally
761 delivered or mailed or on a later date specified [by the agency] in such
762 final decision. The date of delivery or mailing of a proposed final
763 decision and a final decision shall be endorsed on the front of the
764 decision or on a transmittal sheet included with the decision.

765 Sec. 26. Subsection (a) of section 4-181 of the general statutes is
766 repealed and the following is substituted in lieu thereof (*Effective*
767 *October 1, 2007*):

768 (a) Unless required for the disposition of ex parte matters
769 authorized by law, no hearing officer, administrative law judge or
770 member of an agency who, in a contested case, is to render a final
771 decision or to make a proposed final decision shall communicate,
772 directly or indirectly, in connection with any issue of fact, with any
773 person or party, or, in connection with any issue of law, with any party
774 or the party's representative, without notice and opportunity for all
775 parties to participate.

776 Sec. 27. Section 4-181a of the general statutes is repealed and the

777 following is substituted in lieu thereof (*Effective October 1, 2007*):

778 (a) (1) Unless otherwise provided by law, a party or the agency in a
779 contested case may, within fifteen days after the personal delivery or
780 mailing of the final decision or within fifteen days after the date that a
781 proposed final decision becomes a final decision because of agency
782 inaction, as provided in subsection (b) of section 24 of this act, file with
783 the [agency] authority that rendered the final decision a petition for
784 reconsideration of the decision on the ground that: (A) An error of fact
785 or law should be corrected; (B) new evidence has been discovered
786 which materially affects the merits of the case and which for good
787 reasons was not presented in the agency proceeding; or (C) other good
788 cause for reconsideration has been shown. Within twenty-five days of
789 the filing of the petition, [the agency] such authority shall decide
790 whether to reconsider the final decision. The failure of [the agency]
791 such authority to make [that] such determination within twenty-five
792 days of such filing shall constitute a denial of the petition.

793 (2) Within forty days of the personal delivery or mailing of the final
794 decision, the [agency] authority that rendered the final decision,
795 regardless of whether a petition for reconsideration has been filed,
796 may decide to reconsider the final decision.

797 (3) If the [agency] authority that rendered the final decision decides
798 to reconsider [a] the final decision, pursuant to subdivision (1) or (2) of
799 this subsection, [the agency] such authority shall proceed in a
800 reasonable time to conduct such additional proceedings as may be
801 necessary to render a decision modifying, affirming or reversing the
802 final decision, provided such decision made after reconsideration shall
803 be rendered not later than ninety days following the date on which
804 [the agency] such authority decides to reconsider the final decision. If
805 [the agency] such authority fails to render such decision made after
806 reconsideration within such ninety-day period, the original final
807 decision shall remain the final decision in the contested case for
808 purposes of any appeal under the provisions of section 4-183, as
809 amended by this act.

810 (4) Except as otherwise provided in subdivision (3) of this
811 subsection, [an agency] a decision made after reconsideration pursuant
812 to this subsection shall become the final decision in the contested case
813 in lieu of the original final decision for purposes of any appeal under
814 the provisions of section 4-183, as amended by this act, including, but
815 not limited to, an appeal of (A) any issue decided by the [agency]
816 authority that rendered the final decision in its original final decision
817 that was not the subject of any petition for reconsideration or [the
818 agency's] such authority's decision made after reconsideration, (B) any
819 issue as to which reconsideration was requested but not granted, and
820 (C) any issue that was reconsidered but not modified by [the agency]
821 such authority from the determination of such issue in the original
822 final decision.

823 (b) On a showing of changed conditions, the [agency] authority that
824 rendered the final decision may reverse or modify the final decision, at
825 any time, at the request of any person or on [the agency's] such
826 authority's own motion. The procedure set forth in this chapter for
827 contested cases shall be applicable to any proceeding in which such
828 reversal or modification of any final decision is to be considered. The
829 party or parties who were the subject of the original final decision, or
830 their successors, if known, and intervenors in the original contested
831 case, shall be notified of the proceeding and shall be given the
832 opportunity to participate in the proceeding. Any decision to reverse
833 or modify a final decision shall make provision for the rights or
834 privileges of any person who has been shown to have relied on such
835 final decision.

836 (c) The [agency] authority that rendered the final decision may,
837 without further proceedings, modify a final decision to correct any
838 clerical error. A person may appeal [that] such modification under the
839 provisions of section 4-183, as amended by this act, or, if an appeal is
840 pending when the modification is made, may amend the appeal.

841 (d) For the purposes of this section and section 4-183, as amended
842 by this act, in the case of a proposed final decision that becomes a final

843 decision because of agency inaction, as provided in subsection (b) of
844 section 24 of this act, the authority that rendered the final decision
845 shall be deemed to be the agency.

846 Sec. 28. Section 4-183 of the general statutes is repealed and the
847 following is substituted in lieu thereof (*Effective October 1, 2007*):

848 (a) A person who has exhausted all administrative remedies
849 available within the agency and who is aggrieved by a final decision
850 may appeal to the Superior Court as provided in this section. The filing
851 of a petition for reconsideration is not a prerequisite to the filing of
852 such an appeal.

853 (b) A person may appeal a preliminary, procedural or intermediate
854 agency action or ruling to the Superior Court if (1) it appears likely that
855 the person will otherwise qualify under this chapter to appeal from the
856 final agency action or ruling, and (2) postponement of the appeal
857 would result in an inadequate remedy.

858 (c) (1) Within forty-five days after mailing of the final decision
859 under section 4-180, as amended by this act, or, if there is no mailing,
860 within forty-five days after personal delivery of the final decision
861 under said section, or (2) within forty-five days after the [agency]
862 authority that rendered the final decision denies a petition for
863 reconsideration of the final decision pursuant to subdivision (1) of
864 subsection (a) of section 4-181a, as amended by this act, or (3) within
865 forty-five days after mailing of the final decision made after
866 reconsideration pursuant to subdivisions (3) and (4) of subsection (a)
867 of section 4-181a, as amended by this act, or, if there is no mailing,
868 within forty-five days after personal delivery of the final decision
869 made after reconsideration pursuant to said subdivisions, or (4) within
870 forty-five days after the expiration of the ninety-day period required
871 under subdivision (3) of subsection (a) of section 4-181a, as amended
872 by this act, if [the agency] such authority decides to reconsider the final
873 decision and fails to render a decision made after reconsideration
874 within such period, or (5) if a proposed final decision becomes a final

875 decision because of agency inaction, as provided in subsection (b) of
876 section 24 of this act, within forty-five days after the decision becomes
877 final, whichever is applicable and is later, a person appealing as
878 provided in this section shall serve a copy of the appeal on the agency
879 [that rendered the final decision] at its office or at the office of the
880 Attorney General in Hartford and file the appeal with the clerk of the
881 superior court for the judicial district of New Britain or for the judicial
882 district wherein the person appealing resides or, if [that] such person is
883 not a resident of this state, with the clerk of the court for the judicial
884 district of New Britain. An appeal of a final decision under this section
885 shall be taken within such applicable forty-five-day period regardless
886 of the effective date of the final decision. Within [that] such time, the
887 person appealing shall also serve a copy of the appeal on each party
888 listed in the final decision at the address shown in the decision,
889 provided failure to make such service within forty-five days on parties
890 other than the agency [that rendered the final decision] shall not
891 deprive the court of jurisdiction over the appeal. Service of the appeal
892 shall be made by United States mail, certified or registered, postage
893 prepaid, return receipt requested, without the use of a state marshal or
894 other officer, or by personal service by a proper officer or indifferent
895 person making service in the same manner as complaints are served in
896 ordinary civil actions. If service of the appeal is made by mail, service
897 shall be effective upon deposit of the appeal in the mail.

898 (d) The person appealing, not later than fifteen days after filing the
899 appeal, shall file or cause to be filed with the clerk of the court an
900 affidavit, or the state marshal's return, stating the date and manner in
901 which a copy of the appeal was served on each party and on the
902 agency [that rendered the final decision,] and, if service was not made
903 on a party, the reason for failure to make service. If the failure to make
904 service causes prejudice to any party to the appeal or to the agency, the
905 court, after hearing, may dismiss the appeal.

906 (e) If service has not been made on a party, the court, on motion,
907 shall make such orders of notice of the appeal as are reasonably
908 calculated to notify each party not yet served.

909 (f) The filing of an appeal shall not, of itself, stay enforcement of [an
910 agency] a final decision. An application for a stay may be made to the
911 agency, to the court or to both. Filing of an application with the agency
912 shall not preclude action by the court. A stay, if granted, shall be on
913 appropriate terms.

914 (g) Within thirty days after the service of the appeal, or within such
915 further time as may be allowed by the court, the agency shall
916 transcribe any portion of the record that has not been transcribed and
917 transmit to the reviewing court the original or a certified copy of the
918 entire record of the proceeding appealed from, which shall include the
919 [agency's] findings of fact and conclusions of law, separately stated. By
920 stipulation of all parties to such appeal proceedings, the record may be
921 shortened. A party unreasonably refusing to stipulate to limit the
922 record may be taxed by the court for the additional costs. The court
923 may require or permit subsequent corrections or additions to the
924 record.

925 (h) If, before the date set for hearing on the merits of an appeal,
926 application is made to the court for leave to present additional
927 evidence, and it is shown to the satisfaction of the court that the
928 additional evidence is material and that there were good reasons for
929 failure to present it in the proceeding before the [agency] authority that
930 rendered the final decision, the court may order that the additional
931 evidence be taken before [the agency] such authority upon conditions
932 determined by the court. [The agency] Such authority may modify its
933 findings and decision by reason of the additional evidence and shall
934 file [that] such evidence and any modifications, new findings [,] or
935 decisions with the reviewing court.

936 (i) [The] Except as otherwise provided by law, the appeal shall be
937 conducted by the court without a jury and shall be confined to the
938 record. If alleged irregularities in procedure before the [agency]
939 presiding officer are not shown in the record or if facts necessary to
940 establish aggrievement are not shown in the record, proof limited
941 thereto may be taken in the court. The court, upon request, shall hear

942 oral argument and receive written briefs.

943 (j) [The] Unless a different standard of review is provided by law,
944 the court shall not substitute its judgment for that of the [agency]
945 authority that rendered the final decision as to the weight of the
946 evidence on questions of fact. The court shall affirm the final decision
947 [of the agency] unless the court finds that substantial rights of the
948 person appealing have been prejudiced because the administrative
949 findings, inferences, conclusions [,] or decisions are: (1) In violation of
950 constitutional or statutory provisions; (2) in excess of the statutory
951 authority of the agency; (3) made upon unlawful procedure; (4)
952 affected by other error of law; (5) clearly erroneous in view of the
953 reliable, probative [,] and substantial evidence on the whole record; or
954 (6) arbitrary or capricious or characterized by abuse of discretion or
955 clearly unwarranted exercise of discretion. If the court finds such
956 prejudice, [it] the court shall sustain the appeal and, if appropriate,
957 may render a judgment under subsection (k) of this section or remand
958 the case for further proceedings. For the purposes of this section, a
959 remand is a final judgment.

960 (k) If a particular agency action is required by law, the court, on
961 sustaining the appeal, may render a judgment that modifies the
962 [agency] final decision, orders the particular agency action, or orders
963 the agency to take such action as may be necessary to effect the
964 particular action.

965 (l) In all appeals taken under this section, costs may be taxed in
966 favor of the prevailing party in the same manner, and to the same
967 extent, that costs are allowed in judgments rendered by the Superior
968 Court. No costs shall be taxed against the state, except as provided in
969 section 4-184a.

970 (m) In any case in which a person appealing claims that [he] such
971 person cannot pay the costs of an appeal under this section, [he] such
972 person shall, within the time permitted for filing the appeal, file with
973 the clerk of the court to which the appeal is to be taken an application

974 for waiver of payment of such fees, costs and necessary expenses,
975 including the requirements of bond, if any. The application shall
976 conform to the requirements prescribed by rule of the judges of the
977 Superior Court. After such hearing as the court determines is
978 necessary, the court shall render its judgment on the application,
979 which judgment shall contain a statement of the facts the court has
980 found, with its conclusions thereon. The filing of the application for the
981 waiver shall toll the time limits for the filing of an appeal until such
982 time as a judgment on such application is rendered.

983 Sec. 29. Subsection (e) of section 1-82a of the general statutes is
984 repealed and the following is substituted in lieu thereof (*Effective*
985 *October 1, 2007*):

986 (e) The judge trial referee shall make public a finding of probable
987 cause not later than five business days after any such finding. At such
988 time the entire record of the investigation shall become public, except
989 that the Office of State Ethics may postpone examination or release of
990 such public records for a period not to exceed fourteen days for the
991 purpose of reaching a stipulation agreement pursuant to subsection
992 [(c)] (d) of section 4-177, as amended by this act. Any such stipulation
993 agreement or settlement shall be approved by a majority of those
994 members present and voting.

995 Sec. 30. Subsection (e) of section 1-93a of the general statutes is
996 repealed and the following is substituted in lieu thereof (*Effective*
997 *October 1, 2007*):

998 (e) The judge trial referee shall make public a finding of probable
999 cause not later than five business days after any such finding. At such
1000 time, the entire record of the investigation shall become public, except
1001 that the Office of State Ethics may postpone examination or release of
1002 such public records for a period not to exceed fourteen days for the
1003 purpose of reaching a stipulation agreement pursuant to subsection
1004 [(c)] (d) of section 4-177, as amended by this act. Any stipulation
1005 agreement or settlement entered into for a violation of this part shall be

1006 approved by a majority of its members present and voting.

1007 Sec. 31. (*Effective July 1, 2007*) On or before February 6, 2008, the
 1008 Chief Administrative Law Judge appointed pursuant to section 3 of
 1009 this act shall submit to the joint standing committee of the General
 1010 Assembly having cognizance of matters relating to the judiciary a
 1011 feasibility analysis and implementation plan for the transfer of
 1012 contested cases conducted by the Department of Social Services to the
 1013 Office of Administrative Hearings.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	4-61dd
Sec. 2	<i>July 1, 2007</i>	New section
Sec. 3	<i>July 1, 2007</i>	New section
Sec. 4	<i>July 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	New section
Sec. 6	<i>October 1, 2007</i>	New section
Sec. 7	<i>October 1, 2007</i>	New section
Sec. 8	<i>October 1, 2007</i>	New section
Sec. 9	<i>October 1, 2007</i>	New section
Sec. 10	<i>July 1, 2007</i>	New section
Sec. 11	<i>July 1, 2007</i>	New section
Sec. 12	<i>July 1, 2007</i>	New section
Sec. 13	<i>July 1, 2007</i>	2c-2b(e)
Sec. 14	<i>October 1, 2007</i>	4-166
Sec. 15	<i>October 1, 2007</i>	4-176(g)
Sec. 16	<i>October 1, 2007</i>	4-176e
Sec. 17	<i>October 1, 2007</i>	4-177
Sec. 18	<i>October 1, 2007</i>	4-177a
Sec. 19	<i>October 1, 2007</i>	4-177b
Sec. 20	<i>October 1, 2007</i>	4-177c
Sec. 21	<i>October 1, 2007</i>	4-178
Sec. 22	<i>October 1, 2007</i>	4-178a
Sec. 23	<i>October 1, 2007</i>	4-179
Sec. 24	<i>October 1, 2007</i>	New section
Sec. 25	<i>October 1, 2007</i>	4-180
Sec. 26	<i>October 1, 2007</i>	4-181(a)
Sec. 27	<i>October 1, 2007</i>	4-181a

Sec. 28	<i>October 1, 2007</i>	4-183
Sec. 29	<i>October 1, 2007</i>	1-82a(e)
Sec. 30	<i>October 1, 2007</i>	1-93a(e)
Sec. 31	<i>July 1, 2007</i>	New section

GAE *Joint Favorable Subst.*